

SENATE BILL 1990

By Marrero B

AN ACT to amend Tennessee Code Annotated, Title 40,
relative to misdemeanor citations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-7-118(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c)

(1) No citation shall be issued under the provisions of this section if:

(A) The person arrested requires medical examination or medical care, or if the person is unable to care for the person's own safety;

(B) There is a reasonable likelihood that the offense would continue or resume, or that persons or property would be endangered by the arrested person;

(C) The prosecution of the offense for which the person was arrested, or of another offense, would thereby be jeopardized;

(D) A reasonable likelihood exists that the arrested person will fail to appear in court;

(E) The person demands to be taken immediately before a magistrate or refuses to sign the citation;

(F) The person arrested is so intoxicated that the person could be a danger to the person's own self or to others; or

(G) There are one (1) or more outstanding arrest warrants for the person.

(2)

(A) In addition to the reasons stated in subdivision (c)(1), no citation shall be issued under the provisions of this section if the person arrested cannot or will not offer satisfactory evidence of identification, including the providing of a field-administered fingerprint or thumbprint which a peace officer may require to be affixed to any citation; provided, however, that the peace officer makes a reasonable effort to verify such person's identity.

(B) Each law enforcement agency shall promulgate a list of acceptable forms of identification, including but not limited to, government issued and nongovernment issued forms of identification, that alone or in combination with other documents, are sufficient to validate a person's identity for purposes of subdivision (c)(2); provided, however, such list shall not be an exhaustive list of acceptable forms of identification or in anyway otherwise limiting as to the documents a person may provide or the means by which a person may provide satisfactory evidence of identification.

SECTION 2. Tennessee Code Annotated, Section 40-7-118(j), is amended by deleting the subsection in its entirety and substituting instead the following:

(j)

(1) Whenever an officer makes a physical arrest for a misdemeanor and the officer determines that a citation cannot be issued because of one (1) of the eight (8) reasons enumerated in subsection (c), the officer shall note on the arrest ticket the applicable reason or reasons enumerated in subsection (c) and specifically articulate the factors the officer took into consideration when deciding not to issue a citation.

(2) If the officer chooses to effectuate a physical arrest in lieu of issuing a citation pursuant to subdivision (c)(2), the officer shall specifically articulate what efforts the officer made to ascertain the person's identity and list the documents or information that was provided that the officer believed did not constitute satisfactory evidence of identification.

(3) A person's perceived race, color, creed, religion, national origin, sex, sexual orientation, gender identity, disability or age shall not be a factor in determining whether or not to issue a citation or make a physical arrest.

(4) An officer who, on the basis of facts reasonably known or reasonably believed to exist, determines that a citation cannot be issued because of one (1) of the eight (8) reasons enumerated in subsection (c) shall not be subject to civil or criminal liability for false arrest, false imprisonment or unlawful detention.

SECTION 3. This act shall take effect July 1, 2009, the public welfare requiring it.